

**DEPARTMENT OF TRANSPORTATION****Research and Special Programs  
Administration****49 CFR Part 175****[Docket No. HM-184C; Amdt. No. 175-36]****Implementation of the ICAO Technical  
Instructions****AGENCY:** Research and Special Programs  
Administration (RSPA), DOT.**ACTION:** Final rule.

**SUMMARY:** This document amends the Hazardous Materials Regulations to permit batteries with a net weight in excess of 50 pounds, intended as items of replacement for batteries installed in an aircraft, to be transported in an inaccessible manner aboard an aircraft. This amendment is published in response to a petition for reconsideration submitted by the Air Transport Association of America (ATA) in response to amendments published on December 2, 1985, under Docket No. 184C.

**EFFECTIVE DATE:** February 4, 1986.

**FOR FURTHER INFORMATION CONTACT:**  
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**SUPPLEMENTARY INFORMATION:** RSPA published a final rule in the Federal Register on December 2, 1985, [50 FR 49393], under Docket HM-184C. The amendments concerned the implementation of the 1986 edition of the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). One of the specific amendments in that final rule was an exception in § 175.10(a)(2)(ii) that dealt with the transport as cargo aboard an aircraft of batteries intended as items of replacement for batteries normally installed as equipment in an aircraft.

A petition for reconsideration of this amendment has been submitted by the ATA. The petition states that, although the exception provided in § 175.10(a)(2)(ii) stated that aircraft batteries are not subject to a gross weight limitation per package, the provisions of § 175.75(a) continued to impose a quantity limitation of 50 pounds net weight of hazardous materials that may be stowed in an

inaccessible manner aboard an aircraft. The ATA noted that this would appear to negate the effect of the exception added to § 175.10(a)(2)(ii) and, since replacement batteries normally exceed a weight of 50 pounds, their transport aboard passenger aircraft was, in effect, prohibited. The ATA requested that § 175.10(a)(2)(ii) be amended to also except replacement aircraft batteries from the provisions of § 175.75.

The ATA petition is hereby granted. It was not the intent of the RSPA that replacement aircraft batteries should be subject to the provisions of § 175.75, and § 175.10(a)(2)(ii) is therefore being amended to clearly state that replacement aircraft batteries are excepted both from the quantity limitation of 50 pounds net weight that may be stowed in an inaccessible manner aboard an aircraft and from any limitations on the individual weight of the battery or package.

Because this amendment constitutes a grant of relief to a petition for reconsideration of a final rule, I find that notice and comment are unnecessary under 5 U.S.C. 553(a)(2) and (b)(3)(A), and under 5 U.S.C. 553(d)(3) it may be made effective in less than 30 days.

**Administrative Notices****A. Executive Order 12291**

The RSPA has determined that the effect of this final rule will not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures [44 FR 11034] and requires neither a Regulatory Impact Analysis, nor an environmental impact statement under the National Environmental Policy Act [49 U.S.C. 4321 et. seq.]. A regulatory evaluation is available for review in the Docket.

**B. Impact on Small Entities**

Based on limited information concerning the size and nature of entities likely affected, I certify that this rule will not, as promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 49 CFR Part 175**

Hazardous materials transportation.  
Air carriers.

**PART 175—[AMENDED]**

In consideration of the foregoing, the following revision is made to Docket HM-184C:

1. The authority citation for Part 175 continues to read as follows:

**Authority:** 49 U.S.C. 1803, 1804, 1807, 1808, 49 CFR 1.53.

2. Paragraph (a)(2)(ii) of § 175.10 is revised to read as follows:

**§ 175.10 Exceptions.**

(a) \* \* \*

(2) \* \* \*

(ii) Aircraft batteries are not subject to quantity limitations such as those provided in § 172.101 or § 175.75(a) of this subchapter.

\* \* \* \* \*

Issued in Washington D.C. on January 27, 1986, under the authority delegated in 49 CFR 1.53.

**M. Cynthia Douglass,**

*Administrator, Research and Special  
Programs Administration.*

[FR Doc. 86-2117 Filed 2-3-86; 8:45 am]

**BILLING CODE 4910-60-M**